Economic Development Incentives – A Primer

Job Creation Incentives

- Job creation incentives are governed by state law and include contributions from local and state governments. Companies must create at least ten (10) jobs and invest a minimum of $100,000 to qualify; minimum wage thresholds also apply. The program is called the Kentucky Business Incentives Act and commonly referred to as "KBI". KRS 154.32-010.
- KBI operates on a "but for" basis – i.e., "but for" the incentive, this project would not have located in Louisville/Kentucky. All projects that receive KBI incentives are competing with another city/state, which is also usually offering incentives.
- All incentives are performance based (company gets credit based on the actual jobs created). Performance is verified by Kentucky Department of Revenue and Cabinet for Economic Development. If company falls short at any point after activation, the incentives may be suspended or terminated.
- Local (Louisville Metro Government) participation is required to trigger state incentive. The local participation triggers at least a 3 to 1 (and in some cases 4 to 1) multiplier return from the state.
- Local can pledge up to 1% of occupational wage assessment (total occupational wage assessment is 1.25%).
- Local incentives are approved by the Metro Council. State incentives are approved by the Kentucky Economic Development Finance Authority (KEDFA), which convenes in open meeting at least once a month. Economic development projects, and the details pertaining to incentive negotiations, are almost always confidential until they are discussed and voted upon at KEDFA.
- Louisville and Southern Indiana have a long-standing agreement to not incent 'river hopping', which reads in part, "Existing jobs will not be incentivized to move from part of the metropolitan area to another."

Tax Increment Financing (TIF)

- Tax increment financing, or "TIF" is governed by state law and provides an incentive for real estate development; a portion of the new taxes (i.e., the increment) generated by a new development are rebated back to the developer to help support the development costs. There are four (4) kinds of TIFs outlined in state law:
  - Local only TIF, which offers a rebate of a portion of local property tax increment. Local TIFs may also include a rebate of local occupational tax, but most local TIFs are local property tax only. KRS 65.7041-.7083.
  - State Property Tax TIF, which requires a minimum capital investment of $10 million, offers a rebate of a portion of the state property tax increment. No more than 20% of the capital investment or square footage shall be devoted to assets that will be utilized for the retail sale of tangible personal property. KRS 154.30-040.
  - Mixed-Use TIF, which requires a minimum capital investment of $20 million, but may not exceed $200 million in investment, offers a rebate of a portion of some or all of the following: state tax, state sales tax, and state withholding tax increments. Projects in a Mixed-Use TIF must have at least two qualified uses, each of which comprises at least 20% of the total finished square footage or capital investment, or

three qualified uses, one of which comprises at least 20%, and the other two, when combined, also comprise at least 20% of the total finished square footage or capital investment. The qualified uses are: retail, residential, office, restaurant or hospitality. KRS 154.30-060.
    - Signature TIF, which requires a minimum capital investment of $200 million and offers a rebate of a portion of some or all the following taxes: state and local property tax, state sales tax, state withholding tax, and local occupational tax increments. No more than 20% of the capital investment or square footage shall be devoted to assets that will be utilized for the retail sale of tangible personal property. Certain additional costs may be recoverable under this program that are not eligible under the other TIF programs. KRS 154.30-050.
- TIFs have a "but for" requirement under Kentucky law, meaning that "but for" the TIF, the new development would not occur.
- Under Kentucky law, a property must meet at least two (2) of seven (7) conditions of blight, such as deteriorating or abandoned structures, abandonment of commercial activity, etc., for the property to potentially qualify for a TIF. KRS 65.7049(3).
- Metro Council approval is required for any Local only TIF. Metro Council and KEDFA approval is required for any State Property Tax, Mixed-Use and Signature TIF.
- For Local only TIFs, the amount of the incentive each year is 80% of the growth (Metro Council can approve up to 100%, historically it has been 80%) in the county and urban services district portion of the property taxes for up to 20 years. The amount of taxes generated prior to the TIF being approved goes to the general fund, along with the 20% of the growth in the new taxes. Each Local only TIF is approved with a cap. If the project generates more revenue than expected, the TIF ends early and Metro captures the upside. If the project generates less revenue than expected, the risk is on the developer. School taxes cannot be pledged as part of the TIF.
- For Local only TIFs that have a residential component, there is a goal that at least 10% of all units will be priced at a level that is affordable for someone making 80% of Area Median Income (AMI) or less.
- Larger projects meeting additional legal criteria may qualify for a state TIF (State Property Tax, Mixed-Use or Signature). The State requires a local government to participate in the project before the State will do so, but this can be a way to leverage local dollars for additional state dollars in support of a project. Under current law, the amount of the State's participation is capped to reflect the net new economic impact the project will have on the State, as calculated by an independent consultant.
- TIFs are performance based. 100% of the taxes are paid in, and then the developer submits a request to have the increment rebated back. Local only TIFs are verified by OMB prior to being rebated. The amount of any state TIF (State Property Tax, Mixed-Use, Signature) increment is verified by the Kentucky Department of Revenue and the Cabinet for Economic Development before any payment is made.